THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26781 of 2006

26.12.2006

Between:

Shakuntalamma, W/o.Dattatreya

… Petitioner

AND

The Joint Collector, Mahaboobnagar District

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26781 of 2006

ORDER:

The petitioner herein filed an application before the jurisdictional Revenue Divisional Officer (RDO), Narayanpet, Mahaboobnagar District, for grant of ownership certificate under Section 38-E of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (the Tenancy Act, for brevity) in respect of land admeasuring Acs.19.19 guntas in survey No.458, Acs.0.09 guntas in survey No.619 and Acs.3.20 in survey No.620 situated at Neradgom village of Maganoor Mandal in Mahaboobnagar District. The RDO granted ownership certificate in Proceedings NO.E/1535/75, dated 24.7.1975. Similar certificate was also issued in favour of four others. Aggrieved by the same, Sharanamma; predecessor in interest of respondents 2 to 7 herein – preferred appeal before the Joint Collector, under Section 90 of the Tenancy Act. The appeal was allowed on 14.4.1980 setting aside the order of the RDO insofar as land comprised in survey Nos.617, 459, 619 and 620 is concerned and the appeal insofar as grant of ownership certificate in favour of others is concerned, was dismissed. The petitioner herein moved an application purportedly under Order XLI Rule 21 of Code of Civil Procedure, 1908 (CPC) to rehear the matter. She alleged that initially appeal filed by Sharanamma was dismissed for default on 26.5.1978 and that subsequently the same was allowed on 14.4.1980 *e x parte* and that petitioner herein did not receive any notice from the Joint Collector. She also alleged that the land was acquired for submergence under Sangambanda Balancing Reservoir, that when

she made a claim for compensation, she received proceedings dated 24.3.1992 from the Land Acquisition Officer informing the objection raised by second respondent regarding payment of compensation payable to him for the said land. Thereafter, the petitioner came to know about the order of the Joint collector dated 14.4.1980. The first respondent considered her application marked as No.F1/84/2005 and dismissed the same on 04.3.2006. This order is assailed in this writ petition.

After hearing the learned Counsel for petitioner, this Court is of considered opinion that the writ petition is wholly misconceived. Admittedly the Joint Collector allowed the appeal filed by Sharanamma on 14.4.1980 and the petitioner moved application under Order XLI Rule 21 of CPC after lapse of 25 years. The application was absolutely barred by time. However, the Joint Collector condoned the delay and rejected the application on the ground that the order was passed on merits and, therefore, the application for rehearing the matter cannot be accepted. The petitioner has annexed a copy of the order in Case No.B7/57/79, dated 14.4.1980, passed by the Joint Collector, which would show that it is certainly not an *ex parte* order. Dealing with the claim of the petitioer herein, the Joint Collector observed that the petitioner herein at the relevant time was shown to be aged twenty years and not born at the time of commencement of the Tenancy Act. Therefore, he drew an inference that the petitioner herein, who was then aged 22 years, was entered as protected tenant in a bogus and manipulated manner. By any standards, the order of the Joint Collector dated 14.4.1980 cannot be treated as an *ex parte* order. On principle of law, the application filed by the petitioner was not maintainable and the first respondent was right in dismissing the application.

The writ petition, with the above observations, is accordingly dismissed. No costs.

December 26, 2006. (**V.V.S.RAO,J**)

YS